

Research Article

Localized Alcoholic Beverages Regulations in the Recent Development of Indonesia: A Nexus between Ethical and Sociological-Legal Analysis

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Abstract

Indonesia can be characterized as a society marked by significant ethical, cultural and legal pluralism, in which the faith-based legal system does not constitute the formal foundation of the state law. While alcohol consumption is categorically prohibited (ḥarām) within Indonesian ethical normative traditions of the dominant society, the state maintains regulatory frameworks governing the production, distribution and consumption of alcoholic beverages. Employing qualitative, literature-based research and a descriptive ethical analysis alongside sociological legal perspectives, this article examines the localized regulation of alcoholic beverages in Indonesia's recent legal developments—with significant religious diversity—by analyzing the nexus between ethical reasoning and sociological-legal dynamics. The findings demonstrate that although national law does not impose an absolute prohibition on alcohol, regulatory control is exercised through a layered legal structure, encompassing the criminal code, presidential regulations and subnational bylaws. Viewed through the lens of Shari'ah within an ethical and a sociological-legal analysis, this regulatory approach aligns with the objectives of Shari'ah, particularly in limiting distribution, preventing abuse and protecting public welfare. This study argues that alcohol regulation in recent Indonesian development represents a complex negotiation between ethical norms, plural societal realities and state legal authority. Consequently, as a Muslim-majority populated country—with significant religious diversity—Indonesia's regulatory model cannot be equated either with Muslim-minority populated country contexts or with a Muslim-majority populated country that formally institutionalizes Shari'ah as state law.

Keywords: Alcoholic beverages regulation; Ethical and sociological-legal analysis; Legal pluralism; Indonesia

Introduction

The consumption of alcoholic beverages remains a significant social and regulatory issue in Indonesia as well as in many other countries [1]. In numerous contexts, alcohol consumption is embedded in modern lifestyles, leisure practices and social ritual [2,3]. At the same time, within Islamic ethical normative discourse, alcoholic beverages—commonly associated with—khamr have historically been framed as impermissible and potentially harmful [4]. Indonesia presents a particularly complex case. As a Muslim-majority society characterised by substantial cultural and legal pluralism [5], the circulation

and consumption of alcoholic beverages remain prevalent across diverse social settings [6]. In response, the government seeks to regulate the circulation of alcoholic beverages through various legal instruments, including the Criminal Code (KUHP), presidential regulations and regional bylaws. These regulatory arrangements reflect ongoing negotiations between positive law, ethical considerations and ethically informed moral discourses within a plural legal environment.

From the perspective of Shari'ah and sociological-legal scholarship, the regulation of khamr evolved through a gradual process (tadarruj), culminating in its formal prohibition (taḥrīm) [7]. This historical trajectory reflects not only theological reasoning but also sociological dimensions. Within Shari'ah ethical discourse, khamr has been understood as impairing the intellect, conceived as a foundational capacity enabling legal and moral accountability (taklīf) [4]. Therefore, examining alcoholic beverage regulation in the recent development of Indonesia, as a Muslim-majority populated country, through ethical and sociological-legal frameworks allows for an assessment of how contemporary regulatory practices interact with historically grounded ethical objectives articulated within Shari'ah discourse.

Based on the foregoing discussion, this study addresses the following research questions:

- How are alcoholic beverages regulated within Indonesia's recent legal development at both national and subnational levels?
- To what extent do these regulatory frameworks correspond with ethical objectives articulated within Shari'ah discourse when examined through ethical and sociological-legal perspectives?

This study is significant in bridging two analytical dimensions: Indonesia's regulatory framework and ethical principles articulated within Shari'ah discourse. Practically,

it offers insights for policymakers by demonstrating that alcohol regulation extends beyond administrative governance and is shaped by sociological considerations embedded in religiously informed ethical frameworks, particularly those emphasising the protection of ethics, life, intellect, lineage and property. Academically, this study contributes to the literature on ethics and sociological-legal analysis by examining contemporary regulatory challenges in the recent development of Indonesia.

The novelty of this research lies in its analysis of the interaction between positive law and the historical development of Shari'ah ethical norms within the sociological dynamics of Indonesia's Muslim society.

Materials and Methods

This study employs a qualitative research design based on a library-based (doctrinal and socio-legal) approach. The research integrates ethical-normative analysis and sociological-legal analysis to examine the regulation of alcoholic beverages in Indonesia's recent legal developments, with particular attention to localized regulatory practices at national and subnational levels.

The study utilises two categories of data sources. Primary sources consist of legal and normative texts analysed as objects of ethical and legal discourse, including Indonesian statutory instruments such as the criminal code (KUHP), presidential regulations, regional bylaws and Aceh's Qanun regulating alcoholic beverages. In addition, selected Islamic normative-ethical texts—such as the Qur'an, Hadith, classical and contemporary works of Islamic jurisprudence (fiqh) addressing *khamr*—are examined as sources of ethical reasoning.

Secondary sources include peer-reviewed academic journals, scholarly monographs, policy reports and relevant official government documents that provide socio-legal, historical and comparative perspectives on alcohol regulation, legal pluralism and ethical governance in Indonesia.

The research adopts a descriptive-analytical method that proceeds in three stages. First, it analyses the structure and evolution of alcohol regulation in Indonesia's recent legal framework at both national and subnational levels. Second, it examines the ethical principles articulated within Shari'ah discourse—particularly the protection of ethics, life, intellect, lineage and property as an analytical framework for understanding normative ethical objectives. Third, it applies a sociological legal analysis to explore how local social conditions, cultural values and institutional dynamics influence the formulation and implementation of alcohol-related regulations.

Furthermore, an ethical and sociological-legal analysis is applied to explore the underlying rationales, social considerations and regulatory purposes embedded in the recent development of Indonesia's alcohol policies, situating these within broader ethical discourses and socio-legal dynamics in a Muslim-majority society.

The stages of this research include:

Data collection: Data collection involves a systematic review of relevant normative, legal and academic sources. These include Qur'anic verses, Hadiths, classical works of Islamic jurisprudence (fiqh), peer-reviewed journal articles and Indonesian positive legal instruments related to alcoholic beverages, such as the criminal code, presidential regulations, regional bylaws and Aceh's Qanun. These materials are collected as objects of ethical, legal and sociological analysis.

Data classification: The collected data are classified into thematic categories to facilitate systematic analysis. These themes include the conceptualisation of *khamr* in Shari'ah discourse, historical approaches to sanctions and regulation of alcohol consumption and the structure and variation of alcoholic beverage regulation within Indonesia's national and subnational legal frameworks.

Data analysis: The data are analysed using an integrated ethical and sociological-legal approach. Ethical analysis draws on the objectives articulated within Shari'ah discourse—such as the protection of ethics, life, intellect, lineage and property—as analytical categories, while sociological-legal analysis examines how social context, cultural diversity and institutional dynamics shape regulatory practices. This stage assesses the extent to which Indonesia's legal regulations correspond with ethical objectives articulated in fiqh without treating them as prescriptive norms.

Conclusion: The final stage synthesises the analytical findings to address the research questions and to articulate the study's theoretical and practical contributions. These contributions relate to understanding the interaction between ethical discourse, sociological dynamics and positive law in shaping alcohol regulation, as well as to broader discussions on legal governance in the recent development of Indonesian Society and a plural societal context.

With this method, the research is expected not only to describe existing regulations, but also to criticize and evaluate the effectiveness of localized alcoholic beverage regulations in the recent development of Indonesian society from an ethical and sociological-legal analysis.

Theoretical framework

The concept of alcoholic beverages: Ethical and sociological-legal analysis

Etymologically, the term *khamr* derives from the Arabic *khamara*, which means “to cover” or “to conceal” [8]. The term is used in Shari'ah discourse to denote substances that impair or obscure human cognition, thereby preventing clear reasoning [9]. In fiqh terminology, *khamr* is broadly defined as any intoxicating substance, regardless of its source—whether derived from grapes, dates, grains or other materials—that causes loss of consciousness [10]. Thus, the meaning of *khamr* is not limited to a specific drink, but includes all substances that cause intoxicating effects [11].

Within Shari'ah discourse, khamr is haram (prohibited), with its prohibition developing through a gradual process (tadarruj) [7]. The normative basis of the prohibition of khamr is clearly established in the Qur'an, Hadith and ijma' (the consensus) of the ulama (Muslim jurists) [12]. The Qur'an mentions the process of prohibiting khamr in stages: starting from the recognition of its existence (QS. An-Nahl: 67), the affirmation that the madarat (the dangerous) is greater than the benefits (QS. Al-Baqarah: 219), the prohibition of approaching prayer when drunk (QS. An-Nisa: 43), of the total ban by calling khamr a "rijs" (heinous act) that must be avoided (QS. Al-Maidah: 90–91). The Hadith of the Prophet Muhammad also emphasises, "Kullu muskirin haram" (everything that is intoxicating is haram) and calls khamr um al-khaba'ith (the mother of all evils). The Muslim scholars also agree that khamr is haram, a little or a lot [13].

The ethical rationale underlying this prohibition is closely linked to the objectives articulated within Shari'ah discourse, which is to create benefits (maslahat) and bring grace to the whole world [14]. Classical jurists commonly identify the protection of ethics, life, intellect, lineage and property as core ethical objectives [15].

Among these, the protection of intellect (hifz al-'aql) occupies a central position, as rational capacity is regarded as a prerequisite for moral agency and legal responsibility (taklif). Therefore, all forms of actions that damage the mind, such as the consumption of liquor, drugs and other intoxicating substances, are prohibited [16]. God commands people to eat halal and good food and forbids liquor that destroys the mind (QS. al-Maidah [5]: 90).

From a sociological-legal perspective, this ethical reasoning is complemented by concerns regarding the broader social consequences of intoxication, including physical harm, violence, family instability and disruptions to public order. The history of fiqh reflects these concerns through diverse approaches to sanctioning alcohol consumption. While some jurists categorised penalties for drinking khamr as fixed punishments (hudud), others treated them as discretionary sanctions (ta'zir), given the absence of explicit Qur'anic prescriptions regarding the form and severity of punishment [17].

However, the Qur'an does not specify the type and number of punishments, so there is a difference of opinion among jurists. The history of fiqh shows a variation in application: some were punished with a light blow (sandals, cloth or bare hands) and others were prescribed the punishment of whipping. Abu Bakr ra. 40 lashes, Umar ra. Set 80, while Ali ra. return to 40 lashes [18].

This diversity of interpretation suggests that the regulation of khamr within fiqh tradition has never been monolithic, but rather responsive to social context and governance considerations. Consequently, khamr regulation can be understood not only as a theological injunction, but also as a historically situated ethical and sociological response

to perceived risks to individual well-being and social stability. This analytical perspective provides a relevant framework for examining contemporary alcohol regulation in Indonesia, where ethical norms, social realities and positive legal structures intersect.

The variations of localized alcoholic beverage regulations in the recent development of Indonesia

Criminal code

The Indonesian criminal code (KUHP) does not directly mention alcoholic beverages as a criminal offence. However, some articles can be used to ensnare acts arising from alcohol consumption. For example, Article 492 of the criminal code regulates sanctions for anyone who is drunk in public and disturbs order, with the threat of imprisonment or fines. In addition, articles regarding persecution, traffic accidents or other criminal acts can be aggravated if they are carried out while intoxicated. This means that the regulations in the criminal code focus more on the legal consequences of drunkenness, rather than on the prohibition of consuming alcohol itself. The new criminal code (Law No. 1 of 2023 concerning the criminal code), which will come into effect in 2026, still maintains the prohibition of drunken behaviour that disturbs the community [19].

Regulations related to alcohol distribution and licensing

Regulations regarding the distribution and licensing of alcoholic beverages at the national level are established through presidential regulations and the minister of trade's regulation. Some of them are:

- Presidential Regulation No. 74 of 2013 concerning the control and supervision of alcoholic beverages, which regulates the classification of alcoholic beverages based on their ethanol content (Groups A, B and C), procedures for circulation, sales and import licensing [20].
- Trade Regulation No. 20/M-DAG/PER/4/2014 (now revised several times) regulates the trading system of alcoholic beverages, including the obligation to import permits, distribution and prohibitions on sales in certain stalls, small stalls and minimarkets. Trade Minister Regulation No. 25 of 2021 (as an amendment), which adjusts the trading system for alcoholic beverages [21].

Trade and food-related laws

- Law No. 7 of 2014 concerning trade. In this case, the government is authorised to regulate the distribution of certain goods, including alcoholic beverages [22].
- Law No. 18 of 2012 concerning food. This law regulates food safety, including alcohol as a product that must be supervised for circulation [23].
- Law No. 36 of 2009 concerning health. In this case, it is explained that alcoholic beverages are categorised as addictive substances that can interfere with health.

This arrangement aims to limit public access to alcoholic

beverages while accommodating economic, tourism and investment interests.

Regional regulations on alcohol restriction

Many regions in Indonesia have issued special regional regulations that prohibit or restrict alcoholic beverages, especially areas that implement Islamic law (e.g. Aceh) or regions that reduce the social impact of alcohol. In addition to regulations at the central level, local governments also have the authority to establish regional rules to maintain public order. Some Muslim-majority regions have implemented local laws that restrict the circulation of alcoholic beverages. For example, Bandung City Regulation No. 11 of 2010 concerning the prohibition of alcoholic beverages, which prohibits the circulation of alcohol outside certain places [24] and Jakarta Regional Regulation No. 8 of 2007 concerning public order, which limits the circulation of alcohol and regulates administrative and minor criminal sanctions for violators [25]. This regional regulation, in principle, strengthens national regulations by adjusting local socio-cultural conditions.

Qanun Jinayat in Aceh as a model for the application of Islamic law in Indonesia

Aceh is a special region that has the authority to implement Islamic Sharia and national law No. 11 of 2006 concerning the Government of Aceh. One of the implementations is Qanun Jinayat Aceh No. 6 of 2014, which regulates Sharia criminal law [26]. In this qanun, alcoholic beverages are included in the category of Jarimah Khamr. Anyone who deliberately consumes alcoholic beverages is threatened with the punishment of uqubat hudud in the form of 40 lashes [27].

Additionally, the qanun regulates sanctions against those who produce, distribute or trade alcoholic beverages in the Aceh region. With the existence of Qanun Jinayat, Aceh became the only region in Indonesia that explicitly implemented Shari'ah related to the prohibition of khamr, as well as a model for the discourse on the application of religious-normative criminal law in Indonesia [28].

Based on the results of the study, it is known that alcohol regulation in Indonesia consists of national rules (Criminal code, trade law, health law, presidential regulation, trade regulation) and local regulations (Regional regulation and Qanun Aceh).

Results and Discussion

Ethical and sociological-legal analysis of localized alcoholic beverages regulation in the recent development of Indonesia

The objectives articulated within Shari'ah discourse are related to the wisdom or the profound purpose of legal norm or Shari'ah [29]. While the Qur'an and the Prophetic traditions constitute the foundational textual sources of Shari'ah, their fixed textual form necessitated the development of interpretive principles and legal

reasoning (ijtihad) to address evolving social, legal and moral challenges not explicitly regulated in foundational texts [30]. In this sense, ethical objectives articulated within Shari'ah discourse function as an ethical framework that enables normative adaptation within changing social contexts [31].

The purpose of Shari'ah is in line with the purpose of human life and the potential that exists within him and the potential that comes from outside him, namely the happiness of life, both in this world and in the hereafter or in short expression, for the benefit of humans [32]. This goal can be achieved by everything that has advantages and rejecting everything destructive to the pleasure of God in accordance with the principle of monotheism.

The objectives of Shari'ah emphasise that the primary purpose of the Sharia is to safeguard the benefit and prevent harm (jalb al-maṣāliḥ wa dar' al-mafāsīd) [33]. In the context of alcoholic beverages, its haram is strongly related to the preservation of reason (ḥifẓ al-'aql), soul (ḥifẓ al-nafs) and heredity (ḥifẓ al-nasl). Alcohol consumption has been shown to impair consciousness, trigger crime, accidents, domestic violence and moral damage [34,35].

If viewed from the objectives articulated within Shari'ah discourse, Indonesian regulations that restrict the distribution of alcohol in the criminal code, presidential regulation, regional regulation and Qanun Jinayat Aceh had strong relevance. These control efforts are in line with Shari'ah principles in safeguarding the human mind and soul. Although national regulations do not expressly prohibit alcohol, restrictions on circulation, limited distribution permits and sanctions for violations indicate an orientation towards public protection from the dangers of alcoholic beverages.

However, the implementation of alcoholic beverage regulations in a Muslim-majority populated country, such as Indonesia, faces several challenges. First, Indonesia's socio-legal landscape is characterized by cultural pluralism [36]. For certain Indonesian non-Muslim society groups, alcohol is still part of tradition, culture or personal consumption [37]. This raises a dilemma between respecting individual freedom and protecting public order and generating tensions between moral regulation and the accommodation of diversity

Second, alcohol regulation is frequently framed within broader debates on human rights, particularly regarding individual autonomy and freedom of consumption. From this perspective, comprehensive prohibitions on alcohol are sometimes criticised as incompatible with liberal conceptions of personal liberty, thereby constraining the scope of restrictive legal interventions.

Third, considerations of modernity and economic development further complicate regulatory efforts. Alcoholic beverages are often associated with tourism, investment and commercial activity. As a state that does not formally institutionalize Shari'ah as national law,

Indonesia continues to permit alcohol distribution in specific economic sectors, resulting in tensions between public health objectives, moral concerns and economic interests at both national and regional levels [38].

Despite these challenges, opportunities remain for aligning national alcohol regulation with ethical objectives articulated within Shari'ah discourse without undermining Indonesia's pluralistic legal order. A contextual application of the objectives articulated within Shari'ah discourse allows ethical considerations—particularly the protection of intellect and life—to inform regulatory design without necessitating total prohibition. Policy measures such as zoning restrictions on alcohol sales, increased taxation, public education on alcohol-related harm and stricter sanctions for alcohol-induced offences exemplify approaches that balance public welfare with individual freedom.

Moreover, the experience of Aceh's Qanun Jinayat illustrates how Shari'ah-informed regulation can operate within a special autonomy framework [39]. While such a model is not transferable wholesale to other regions due

to Indonesia's plural social structure, it demonstrates the potential role of ethical-religious discourse in shaping localized regulatory responses [39]. Accordingly, harmonisation between national law and Shari'ah in Indonesia should be understood not as the literal incorporation of religious norms into state law, but as the selective integration of ethical objectives articulated within Shari'ah discourse into modern regulatory frameworks that remain attentive to pluralism, constitutional principles and global governance norms.

Thus, to promote the negotiation of a national law with Shari'ah from the perspective of ethical and sociological-legal analysis does not mean the literal application of all Shari'ah norms, but rather the adjustment of the values of the objectives of Shari'ah in modern regulations that still respect pluralism and global dynamics.

To synthesise the ethical and sociological-legal analysis discussed above, Table 1 summarises the alignment between Indonesia's multi-layered alcohol regulatory framework and the ethical objectives articulated within Shari'ah discourse.

Table 1: Alignment between Indonesia's alcohol regulations and ethical objectives of Shari'ah: An ethical and sociological-legal analysis.

Level of regulation	Legal instrument	Regulatory orientation	Relevant ethical objectives of Shari'ah	Sociological-legal implications
National (Criminal law)	Criminal code (KUHP)	Sanctioning public disorder caused by intoxication	Protection of intellect (ḥifẓ al-'aql); protection of life (ḥifẓ al-nafs)	Emphasises public order rather than moral prohibition; alcohol addressed through its social consequences
National (Administrative and economic)	Presidential regulation no. 74/2013; trade regulations	Control of production, distribution and licensing	Protection of life (ḥifẓ al-nafs); protection of property (ḥifẓ al-māl)	Reflects harm-reduction approach while accommodating economic and tourism interests
National (Public health and trade)	Health law; food law; trade law	Classification of alcohol as an addictive and supervised product	Protection of life (ḥifẓ al-nafs); protection of intellect (ḥifẓ al-'aql)	Frames alcohol primarily as a public health issue rather than a moral offence
Subnational (Regional regulations)	Regional by laws (Perda)	Restriction or prohibition based on local socio-cultural values	Protection of intellect (ḥifẓ al-'aql); protection of social ethics	Demonstrates legal pluralism and responsiveness to local moral and cultural norms
Special autonomy region	Aceh Qanun Jinayat No. 6/2014	Explicit prohibition and criminal sanction (ḥudūd)	Protection of intellect (ḥifẓ al-'aql); life (ḥifẓ al-nafs); lineage (ḥifẓ al-nasl)	Represents formal institutionalisation of Shari'ah within a specific socio-political context

This comparative synthesis demonstrates that Indonesia's regulatory model operates through ethical convergence rather than formal legal transposition of Shari'ah norms, reinforcing the argument that ethical objectives may function as guiding principles within plural legal systems.

Conclusion

This study demonstrates that the regulation of alcoholic beverages in the recent development of the Indonesian Muslim-majority populated country reveals a significant point of convergence between national legal frameworks and ethical objectives articulated within Shari'ah discourse, when examined through ethical and sociological-legal perspectives. Within fiqh, khamr has historically been framed as ethically problematic due to its perceived impact on the protection of intellect, life and social order, with its prohibition developing through a gradual process (tadarruj) grounded in broader concerns for social harm prevention until it reaches absolute prohibition, with the basic principle of kullu muskirin haram (everything that is intoxicating is haram).

From an ethical and a sociological-legal standpoint, the impermissibility of khamr is closely associated with the objectives of Shari'ah, particularly the protection of intellect (hifz al-'aql), life (hifz al-nafs) and lineage (hifz al-nasl). These objectives conceptualise alcohol consumption not merely as an individual moral issue, but as a practice with wider social consequences that may affect collective welfare and public order.

In the Indonesian context—where Shari'ah is not institutionalised as state law—alcohol regulation is articulated through a layered legal framework, including the criminal code's regulation of intoxicated behaviour in public spaces, presidential regulations governing distribution and licensing, regional bylaws reflecting local socio-cultural considerations and Aceh's Qanun Jinayat, which explicitly prohibits and sanctions alcohol consumption within a special autonomy regime. Although national law does not impose a categorical prohibition on alcohol, these regulatory mechanisms collectively demonstrate an orientation toward harm reduction and public protection that corresponds with ethical objectives articulated within Shari'ah discourse.

Nevertheless, the implementation of alcohol regulation in the recent development of Indonesia faces persistent challenges arising from cultural pluralism, human rights discourses concerning individual autonomy and the competing demands of modern economic and tourism interests. These factors necessitate a regulatory approach that avoids purely repressive measures and instead seeks to balance individual freedoms with broader concerns for public welfare.

Accordingly, this study argues that the potential for harmonisation between national law and Shari'ah in the recent development of Indonesia lies not in the literal incorporation of ethical norms into state law, but in the contextual integration of ethical objectives articulated

within Shari'ah discourse into contemporary regulatory frameworks. By emphasising harm prevention, community protection and the promotion of social benefit while remaining attentive to pluralism and global dynamics, Indonesia's legal framework can function not only as an administrative instrument but also as a mechanism for advancing justice and social welfare within a complex, plural society.

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